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FISCAL IMPACT STATEMENT

LS 7108
BILL NUMBER: HB 1008

NOTE PREPARED: Mar 20, 2006
BILL AMENDED: Mar 14, 2006

SUBJECT: Public-Private Agreements for Transportation.

FIRST AUTHOR: Rep. Borror
FIRST SPONSOR: Sen. Meeks

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions.

Public-Private Agreements: The bill amends the current laws concerning toll roads and tollways and adds new provisions to authorize:

(1) the Indiana Finance Authority (IFA) to enter into public-private agreements with private entities (operators) concerning toll road projects; and
(2) the Indiana Department of Transportation (INDOT) to enter into agreements with operators concerning tollway projects, roads, and bridges.

It provides that the IFA may not enter into an agreement after August 1, 2006, if the agreement would authorize the imposition of tolls unless a statute authorizing the imposition of tolls is enacted. It also provides that INDOT may not enter into an agreement concerning a project other than I-69.

The bill provides that an agreement may be for any combination of the planning, acquisition, construction, improvement, extension, operation, repair, maintenance, and financing of projects. It provides that an agreement is subject to the approval of the Governor after review by the Budget Committee.

The bill also establishes procedures for selection of operators by the IFA and INDOT.

The bill prohibits the IFA, INDOT, or an operator from:

(1) carrying out construction for I-69 in certain townships;
(2) imposing tolls on a highway between Martinsville and Indianapolis; or

(3) establishing a tollway (except on part of I-69); unless a statute authorizing that construction, tolling, or tollway is enacted.

Toll Rate Setting: The bill permits the establishment of user fees and tolls under an agreement, including maximum tolls and user fees and criteria for the adjustment of those maximums.

Moral Obligation: It provides that, with the approval of the Budget Director after review by the Budget Committee, an agreement may include a moral obligation of the state to pay certain costs incurred as a result of default by the state under the agreement.

Electronic Toll Collection Systems: The bill provides that an agreement may include provisions concerning electronic toll collection systems and photo- or video-based toll collection enforcement systems.

User Fees and Enforcement Procedures: It authorizes the IFA to adopt emergency rules concerning user fees under an agreement and enforcement procedures and assessments for failure to pay required tolls, including electronic and photo- or video-based collection enforcement.

Public Employees' Retirement Fund (PERF) Withdrawal: The bill establishes a process to withdraw state employees from PERF and to allow certain state employees to retire when the employees' particular departmental, occupational, or other classifications are terminated from state employment as a result of: (1) a lease or other transfer of state property to a nongovernmental entity; or (2) a contractual arrangement with a nongovernmental entity to perform certain state functions. It establishes the funding sources for the amounts that the state is required to contribute to PERF for the purchase of up to 24 months of creditable service needed by a terminated employee who elects normal or early retirement.

Northwest Indiana Regional Development Authority (NIRDA): It deletes the requirement for certain payments to NIRDA from toll road revenues or the state General Fund.

The bill permits the LaPorte County Council to join the NIRDA if the County Council and the City Council of Michigan City adopt ordinances before September 15, 2006, providing that they are joining the NIRDA. It requires LaPorte County and Michigan City to make annual payments to the NIRDA, and it provides that LaPorte County and Michigan City may use all or a part of their distributions from the Major Moves Construction Fund to pay their required contributions to the NIRDA. The bill also permits Laporte County to use Economic Development Income Tax (EDIT) revenue to pay the county's contributions to the NIRDA and provides that revenue from any increase in the county's EDIT rate must be used for that purpose.

Property Tax Exemption: The bill provides that property leased or acquired by an operator for a public-private project is exempt from property taxes.

Income Tax: The bill also provides that an operator's income from an agreement is subject to taxation in the same manner as income received by other private entities.

Use of Toll Road Revenues: The bill provides that revenues from an agreement entered into with respect to a toll road shall be deposited in the Toll Road Fund and used to:

(1) retire certain outstanding bonds;
(2) pay amounts owed by the IFA with respect to the agreement; and
(3) distribute $500 M to the Next Generation Trust Fund.

The bill provides that the remaining money in the Toll Road Fund is to be distributed to the Major Moves Construction Fund.

Major Moves Construction Fund: The bill establishes the Major Moves Construction Fund and provides for distributions from that fund for various purposes.

It also permits the Budget Agency, after Budget Committee review, to augment distributions from the Major Moves Construction Fund to INDOT.

The bill provides that the total amount of distributions from the Major Moves Construction Fund for projects or purposes that benefit counties traversed by the Indiana Toll Road may not be less than 34% of the money transferred to the Major Moves Construction Fund from the Toll Road Fund plus money held in escrow for certain toll reductions. It provides that the Budget Agency is responsible for determining the amount necessary to comply with the 34% requirement.

Next Generation Trust Fund: The bill establishes the Next Generation Trust Fund and provides for distributions of interest on the fund to the Major Moves Construction Fund at 5-year intervals beginning in 2011.

Use of Tollway Revenues: The bill provides for the distribution of revenues from an agreement entered into with respect to a tollway to the Major Moves Construction Fund, to the State Highway Fund, to INDOT for use on other projects designated by INDOT, or to the operator, the IFA, or INDOT for debt reduction.

Prohibited Political Contributions: The bill prohibits the operator under an agreement or a person having at least a 1% interest in the operator from making political contributions to state, local, or legislative candidates or certain political committees.

Conversion of State Highways: It provides that INDOT may not convert a state highway to a toll road or a tollway unless the General Assembly adopts a statute approving the conversion.

Special Employment and Training Services Fund: It allocates $2 M from the Special Employment and Training Services Fund for certain pre-apprenticeship and apprenticeship programs related to the construction trades. It eliminates an allocation for certain training and counseling assistance programs provided by state educational institutions.

Technical Corrections: The bill makes technical corrections and conforming amendments.

Effective Date: Upon passage; December 31, 2005 (retroactive); July 1, 2006.

Explanation of State Expenditures: *Public-Private Agreements:* The bill establishes public-private agreements for toll road projects (including the existing Indiana Toll Road) and for future projects concerning tollway projects, including roads and bridges. The fiscal impact of these public-private agreements will depend on the circumstances of each proposed project. Positive fiscal impact will occur if the lease of a state asset garners more money than the long-term net revenues generated by the asset. Also, if the state transfers risk to another party for which the state would have to pay a premium or that has high probability for additional costs, the state could benefit from these public-private agreements. If the state accepts funds today in place of future revenues, the state loses the future income and the flexibility to accept new projects using that income.

Background on the IFA: The Indiana Finance Authority (IFA) is a body politic and corporate, not a state agency, but an independent instrumentality exercising essential public functions.

Under current law, the IFA may construct, maintain, repair, police, and operate toll road projects in Indiana. In order to secure funds for these functions, the IFA may issue toll road revenue bonds of the state. Toll road revenue bonds do not constitute a debt of the state or of any political subdivision and are payable solely from the funds pledged for their payment or from an allocation of money from the Rural Transportation Road Fund, which is administered by the IFA.

The IFA is allowed, under current law, to contract with or lease to INDOT for construction, reconstruction, improvements, maintenance or repairs, or operation of toll projects or toll bridges. The statute also allows for the IFA to determine under IC 8-23-7 that a toll road project constructed or operated by the IFA should become a part of the system of state highways free of tolls or become a tollway.

Background on Public-Private Agreements for Toll Road Projects: After August 1, 2006, the IFA or INDOT may not issue a request for proposal or enter into a public-private agreement that would impose tolls on a Toll Road Project without the General Assembly adopting a statute that allows the imposition of tolls. The bill requires IFA to enter into a written agreement with an operator concerning the implementation of electronic or nonmanual means of collecting user fees imposed on Class 2 vehicles if a public-private agreement concerning the Indiana Toll Road is completed.

The bill requires the IFA to issue a request for proposal that must be published in accordance with IC 5-3-1. The IFA may negotiate with the responsible offerors in confidence and, after receiving final offers, make a preliminary selection or terminate the process. The bill establishes criteria for determining whether an offeror is capable of being selected for a public-private agreement. If a preliminary selection is made, the IFA must hold a public hearing and provide a written explanation of the basis for the selection at least 7 days before the public hearing. After these procedures are complete, the IFA may select the preliminary offeror as the operator.

The public-private agreement must be reviewed by the State Budget Committee and approved by the Governor prior to its execution. The public-private agreement may not exceed 75 years. It must contain either provisions for lease, franchise, or license of the toll road project or for management agreements or contracts to operate the toll road project. All real property and improvements must be owned by the IFA. The agreement must allow for monitoring maintenance practices and provide for corrective action. The agreement must establish the basis on which user fees may be collected by the operator. Also required are provisions that require compliance with state and federal laws and local ordinances, the grounds for termination, and the procedures for amendment. In addition, some of the other provisions that may be inserted in the agreement include review and approval of the operator's plans for development and operation, inspection of construction or improvements, the filing of appropriate financial statements by the operator, and financing obligations of the operator and the IFA.

The bill allows the operator to finance its obligation by issuing debt, equity, or other securities, entering into sale and leaseback transactions, and securing financing with a pledge of, security interest in, or lien on any user fees charged and collected for use of the toll road. Obligations issued shall not be considered to constitute a debt of the state or a political subdivision or a pledge of the faith and credit of the state or political subdivision.

For construction, the operator would not have to comply with state laws concerning public works or public works by state agencies, but would have to comply with provisions concerning minority business enterprises and women's business enterprises and, if specified in the public-private agreement, award contracts to Indiana businesses.

The bill would allow the IFA to fix user fees and establish maximum amounts and provide for increases and decreases based on indices, methodologies, or other factors selected by IFA. The bill also allows the IFA to pay any amount owed by the IFA under a public-private agreement. Subject to the review of the Budget Committee and approval of the Budget Director, a public-private agreement may establish a procedure for the IFA or a representative to certify to the General Assembly the amount needed to pay the amounts owed under the public-private agreement or otherwise create a moral obligation of the state to pay any amounts owed. Bonds issued under this section do not require the approvals required of other bonds issued by IFA.

The bill allows the IFA, the operator, and the Indiana State Police (ISP) to enter into an agreement to provide law enforcement and between the IFA and ISP related to the costs incurred to provide law enforcement.

Background on the Indiana Toll Road - The IFA leases the toll road to INDOT to operate and maintain the road in an efficient and economical manner, as allowed under current law. INDOT created a special Toll Road District to keep its work on the Toll Road separate from other state functions. The Indiana East-West Toll Road Project (Toll Road Project) - an accounting entity - pays rent to the IFA to meet its debt service. Once operating expenses, major expense fund requirements, and base rent are paid, any excess income is paid to IFA as additional rent which is maintained as assets held on behalf of IFA. The balance in this account on June 30, 2005, was $242.9 M, of which $82.2 M was invested in capital assets and $143.8 M had restricted use.

Revenues of the Toll Road Project are derived from tolls collected, rent payments from concessionaires, and investment income. Operating expenses are general administration, toll collection, road operations, various services including patrol services, major expense repairs and renovations, and depreciation expense. The following table shows operating results from the Toll Road Project from FY 1999 through FY 2005.

Operating Revenues and Expenses Indiana East-West Toll Road Project (In Millions)							
	FY 1999[a]	**FY 2000[a]**	**FY 2001[a]**	**FY 2002[a]**	**FY 2003[a]**	**FY 2004[b]**	**FY 2005[b]**
Operating Revenue							
Toll Receipts	$81.6	$84.8	$81.3	$82.5	$82.0	$85.1	$88.0
Concessionaire Rent	5.3	7.0	6.5	5.9	6.5	7.0	7.0
Other	1.1	1.1	0.7	0.9	0.5	0.6	0.8
Total Revenue	**88.0**	**92.9**	**88.5**	**89.3**	**89.0**	**92.7**	**95.8**
Operating Expenses							
Depreciation	10.1	10.4	11.1	3.4	3.1	3.1	3.6
Other Expenses	44.7	40.8	34.3	64.9	70.0	57.3	67.9
Total Operating Expenses	**54.8**	**51.2**	**45.4**	**68.3**	**73.1**	**60.4**	**71.5**
Nonoperating Income (Expense)	(14.0)	(10.0)	(8.1)	(12.6)	(15.0)	(13.9)	(12.6)
Net Income (Loss)	**$19.2**	**$31.7**	**$35.0**	**$8.4**	**$0.9**	**$18.4**	**$11.7**

[a]*State of Indiana Comprehensive Annual Financial Report* for the fiscal year.
[b]*Indiana East-West Toll Road Project Annual Report, June 30, 2005 and 2004.*

The cash flow statement provides information about changes in cash from the operating, financing, and investing activities of the entity. The total cash flow between FY 1999 and FY 2005 is $48.9 M, with operating activity providing positive cash flow each year. In five years of this seven-year period, the overall cash flow has been negative due to financing and investing activity.

Cash Flow Statement Indiana East-West Toll Road Project (In Millions)							
Cash Flow from ...	**FY 1999[a]**	**FY 2000[a]**	**FY 2001[a]**	**FY 2002[a]**	**FY 2003[a]**	**FY 2004[b]**	**FY 2005[b]**
Operating Activity	$36.1	$53.6	$52.0	$26.6	$20.2	$35.8	$28.4
Financing Activity	(38.2)	(55.8)	(52.7)	(25.2)	(33.3)	(45.7)	(47.1)
Investing Activity	(12.9)	88.5	(34.1)	84.8	(27.7)	(6.9)	2.5
Total	**($15.0)**	**$86.3**	**($34.8)**	**86.2**	**(40.8)**	**(16.8)**	**(16.2)**

[a]*State of Indiana Comprehensive Annual Financial Report* for the fiscal year.
[b]*Indiana East-West Toll Road Project Annual Report, June 30, 2005 and 2004.*

The Annual Report indicates that 91% of the Toll Road Project's lane miles were rated in good or better condition and 100% of the Toll Road Project's bridges were rated in good or better condition. None of the bridges were rated as substandard. The INDOT standard for road quality is 85% of the roads in good or better condition and for bridges the standard of quality is that less than 1% of the bridges are rated as substandard.

Background on Revenue Bonds Issued by IFA - To date, bonds issued by the IFA have been revenue bonds, secured by the revenues generated from tolls. However, the lease agreement between IFA and INDOT dated September 1, 1985, states:

> If there still remains a deficit in Revenues….then the Department within 30 days will promptly report and request approval of the Transportation Coordinating Board and the State Budget Agency for the submission of a bill either as a part of or as an amendment to the budget bill providing an appropriation by the General Assembly to the Department of funds for the purpose of and in amounts sufficient to pay the obligations of the Department under this Lease…

It is understood that this lease language and other language in the covenants of the revenue bonds that the revenue bonds could represent a moral obligation of the state. The state has risk to the extent that the Toll Road Project would fail to earn sufficient revenue to pay the debt service and a default on outstanding bonds would affect the state's bond rating. Any additional bonds that the IFA may issue for road construction projects may establish the same sort of moral obligation and expose the state to this risk of financial responsibility.

Net Present Value - The bill would allow the IFA to receive a one-time payment in the present instead of collecting a stream of net income over a period of time up to 75 years. Positive fiscal impact would occur if the present value of the Toll Road lease is over and above the present value of the stream of net revenues that would otherwise have been received. Reasons that an offeror would pay more than the stream of cash flows include (1) the offeror can operate the Toll Road Project at a lower cost than the state, (2) the offeror can charge fees that are higher than the state would have charged, or (3) the offeror is willing to pay a premium for the rights to operate the Toll Road.

Conversely, the offeror may offer less because the costs to the offeror are higher than they are for the state. For example, the offeror's costs will include applicable taxes (see *Explanation of State Revenues*) and a profit for shareholders. These net cash flows will be discounted by the average investment rate of the offeror which could be higher or lower than the state's rate of investment.

The state recently proposed rules to raise the Toll Road tolls which will result in more revenue for the Toll Road Project. To the extent that costs remain constant, the future net income of the Toll Road Project could increase. However, the toll increase is based on the need for improvements to the Toll Road Project which will increase construction costs.

The calculation of the net present value of the project to the state and to an offeror requires management and engineering expertise to determine future costs for maintenance and improvements.

Background on Public-Private Agreements for Tollway Projects: The bill allows INDOT to develop, finance, or operate (or any combination) one or more public-private agreement projects related to a tollway or other projects that charge user fees. However, unless the General Assembly enacts a statute, INDOT, IFA, or an operator may not issue a request for proposal or enter into a public-private agreement other than for I-69 between I-465 and I-64. Also, unless a statute is enacted, construction for I-69 may not be carried out in Perry Township and tolls may not be imposed for an interstate highway that connects Martinsville with Indianapolis.

Under the bill the definition of a tollway is expanded to include a bridge or tunnel, and the express or managed lanes of a motor way. Also, a structure, ramp, assess road, service road , utility corridor, toll gantry, rest stop that is not tolled, but is an accessory to a tollway is added. A project constructed or operated under this article is part of the state highway system. The public-private agreement may not exceed 75 years including extensions.

Prior to commencing a procurement process for a tollway, INDOT shall prepare a preliminary feasibility study; schedule a public hearing on the proposed project and the feasibility study; allow the public to be heard at the hearing; and after the meeting, submit the feasibility study to the Budget Committee.

The bill establishes a competitive proposal procedure for INDOT to enter into public-private agreements. The process requires INDOT to submit a draft of a request for proposal to the Budget Committee before releasing it to potential offerors and to hold a public hearing before awarding a public-private agreement. The Budget Committee is to review the INDOT determination of the successful offeror as operator and the Governor os to accept the determination and designate the successful offeror. The offeror must enter into a public-private agreement with INDOT before development, financing, operation, or any combination of these activities may take place.

INDOT decides the appropriate provisions for a particular qualifying project, which may include delivery of performance and payment of bonds or other security; review of plans; inspection of construction or improvements; maintenance of insurance; monitoring of maintenance; filing appropriate financial statements; compensation or payments to the operator, attorneys, bankers, financial advisors, or other professionals; compensation or payments to INDOT; date and terms of termination; reversion of the qualifying project to INDOT; and rights and remedies of INDOT if the operator defaults. A public-private agreement may not provide that the state or INDOT is responsible for any debt incurred by an operator in connection with the delivery of the project.

INDOT will fix the maximum amount of user fees and provide for increases or decreases of the maximum amount. The public-private agreement may authorize the operator to adjust the user fees and to charge and collect user fees through manual and nonmanual methods. Payment or compensation for the public-private agreement is distributed to the Major Moves Construction Fund, to INDOT for deposit in the State Highway Fund, or to the operator or IFA for debt reduction.

The bill allows INDOT to make grants or loans from amounts received from the federal government or a state or local agency. It also provides for INDOT to take over qualifying projects at termination or expiration of the public-private agreement without pledging the full faith and credit of the state, any political subdivision, or the IFA.

The bill provides for INDOT to enter into one or more memoranda of understanding (MOU) with respect to the implementation and administration of a public-private agreement. The MOU may provide that INDOT has responsibility for administering and overseeing the public-private agreement.

The plans and specifications for a public-private agreement project must comply with INDOT's standards for other projects of a similar nature and any other applicable state or federal standards. However, a construction project is not required to comply with state public works statutes or statutes concerning purchases of supplies and materials.

IFA or INDOT may support private-entity applications to obtain federal, state, or local credit assistance for qualifying projects, or take actions to obtain federal, state, or local assistance for a qualifying project. The IFA may issue bonds, debt, other securities, or other financing. The bonds or notes issued do not have to comply with certain requirements already in statute concerning approval by the commissioner of INDOT and the Budget Agency, the weighted-average life of the project, and the weighted-average life of the bond.

Law enforcement officers of the state and of local jurisdictions have the same powers and jurisdiction within the limits of a qualifying project as they have in their respective areas of jurisdiction. The IFA may enter into arrangements with the ISP related to costs incurred providing law enforcement assistance under this article.

Northwest Indiana Regional Development Authority (NIRDA): Under current law, the IFA is required to make payments between \$5.0 M and \$10.0 M in CY 2006 and CY 2007 to NIRDA in equal quarterly payments. If the Toll Road is leased or sold before January 1, 2008, the State Treasurer, in CY 2007, is required to make a payment of \$20.0 M minus any payment already made. The payment would come from the state General Fund. As of December 2005, the IFA approved a \$10 M allocation to NIRDA in 2006 from the Toll Road General Reserve Fund. Payments required under current law to NIRDA are deleted by the bill. Under the bill, if the Toll Road is sold or leased before January 1, 2008, NIRDA would receive an amount, if any, appropriated by the General Assembly. Under the bill, a payment to NIRDA is to be made from the Major Moves Constructions Fund in the manner discussed in *Explanation of State Revenues*.

Moral Obligation: For a toll road project undertaken with public-private agreements, the IFA may issue bonds or debt for a qualifying project. For a qualifying tollway project, the IFA may enter into an agreement, lease, or sublease with INDOT or an operator to issue bonds, debt, or other obligations; enter into loan agreements; or secure financing. The funds may be mixed and aggregated with funds provided by an operator. The bill stipulates that the issue does not constitute a debt of the state or a pledge of the faith and credit of the state or any political subdivision. However, the bill also allows for a moral obligation to be created with the review of the Budget Committee and the approval of the budget director. If the project does not provide revenues sufficient to repay bonds or notes, the General Assembly could be asked to make appropriations from the state General Fund.

Special Employment and Training Services Fund: The bill eliminates a requirement that the commissioner of the Department of Workforce Development (DWD) allocate up to \$450,000 annually from the Special Employment and Training Services Fund for job training and counseling assistance or job counseling provided by the DWD to certain unemployed persons. This allocation is eliminated beginning in FY 2007.

In addition, the bill requires the commissioner to allocate up to \$2 M annually from the fund for pre-apprenticeship and apprenticeship training and counseling assistance relating to the construction trades for individuals who: (1) are not otherwise eligible for training and counseling assistance under any other program; and (2) are not participating in programs that duplicate existing joint training and management apprenticeship programs. This allocation is effective beginning in FY 2007 and expires December 31, 2012. The bill requires priority to be granted to training or counseling persons who are members of a minority group. The bill also requires the DWD to approve the training and counseling assistance programs funded by the allocation.

Background: The Special Employment and Training Services Fund consists of interest and penalties collected from employers who are delinquent paying unemployment taxes. The fund is used to pay refunds of interest on delinquent contributions and penalties improperly collected and the costs of administration that are not chargeable against federal grants or other funds. The revenue to the fund for FY 2005 was about $5.7 M, expenditures were about $3.0 M, and the fund balance on June 30, 2005, was about $20.4 M.

User Fees and Enforcement Procedures: The bill exempts the IFA from some of the requirements of rule-making procedures including public notices and hearings, a one-year completion time, small business provisions, and approval from the Attorney General and the Governor. Also, the bill makes rules adopted by the IFA expire at the date set by the IFA. It is expected that making emergency rules will incur minimal additional administrative costs for the IFA.

Background on Enforcement Procedures: By establishing enforcement procedures for nonpayment of tolls, the bill clears the way for use of electronic toll collection devices. Currently, the Toll Road operates as a closed barrier system between miles 1 and 23, and as a closed ticket toll collection system between miles 24 and 153. The Toll Road has computerized collection equipment and has begun to establish infrastructure to move towards an electronic system. Using electronic technology could reduce the number of toll collectors needed and reduce maintenance and operation costs for toll collection stations.

Prohibited Political Contributions: There are no data available to indicate how many offenders may be convicted of knowingly or intentionally making a contribution to a candidate or a committee in the term during which the operator is a party to a public-private agreement or three years after the final expiration or termination of the agreement. A Class D felony is created for toll road projects and for tollway projects.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was $20,977 in FY 2005. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately $1,825 annually, or $5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Public Employees' Retirement Fund (PERF) Withdrawal: The ultimate impact of this bill will depend on administrative actions in terms of leasing or transferring state property to a nongovernmental entity or contracting with a nongovernmental entity to perform state functions and the number and specific situations of the employees involved.

There are three potential cases where a fiscal impact may occur.

(1) The bill permits any current state PERF member with less than 10 years of service whose employment is terminated because of a lease or other transfer of state property to a nongovernmental entity, or because of a contractual arrangement with a nongovernmental entity, to become fully vested in a pension benefit. The actuarial cost for this provision is minor since such PERF members are usually young with low salaries, and such members are likely to request a refund of their annuity savings account, thereby forfeiting their accrued pension benefit. The estimated fiscal impact for 100 such PERF members is approximately $65,800 with a 30-year amortization of $5,100. The funds affected, on average, are the state General Fund (55%), or $2,805, and various dedicated funds (45%), or $2,295, per 100 affected employees. The percentage split represents the amount each fund contributes to the state budget.

(2) The bill also permits any current state PERF member who is at least 65 and whose employment is terminated because of a lease or other transfer of state property to a nongovernmental entity, or because of a contractual arrangement with a nongovernmental entity, to be able to retire from PERF even if the member has less than 10 years of service. The only fiscal impact that would potentially occur would be for those members who would have, under normal circumstances, terminated employment prior to earning 10 years of service. The estimated fiscal impact for 10 such members (there are probably few who would fall in this category) to be about $22,500 with a 30-year amortization of $1,700. The funds affected, on average, are the state General Fund (55%), or $935, and various dedicated funds (45%), or $765, per 10 affected employees. The percentage split represents the amount each fund contributes to the state budget.

(3) The bill also permits any current state PERF member who is within 24 months of early or normal retirement and whose employment is terminated because of a lease or other transfer of state property to a nongovernmental entity, or because of a contractual arrangement with a nongovernmental entity, to have the remaining service purchased by the state to permit the member to qualify for immediate retirement. This provision would apply to all eligible members. The estimated fiscal impact for 100 such members is approximately $721,000 with a 30-year amortization of $55,500. The funds affected are the state General Fund (55%), or $30,525, and various dedicated funds (45%), or $24,975, per 100 affected employees. The percentage split represents the amount each fund contributes to the state budget.

[NOTE: The potential expenditures listed above are proportional; that is, if a category has twice as many affected employees as illustrated, the estimated fiscal impact would double as well.]

Besides the actuarial cost, there may also be additional administrative costs. These administrative costs would arise from the computation of benefits and the confirmation of credited service that may not have needed to be done under normal circumstances. Potential administrative costs are indeterminable at this time.

Funding Sources: The bill identifies the following funding sources for payments: (1) if the state receives monetary payments under a lease or contractual arrangement, the proceeds of the monetary payments received by the state; (2) if the state does not receive any monetary payments under a lease or contractual arrangement, any remaining appropriations made to the state department, agency, or other entity terminating the employees; and (3) if the sources described in parts 1 and 2 do not fully fund the amounts that the state is required to contribute to the fund, the PERF Board is to request that the General Assembly appropriate the amount necessary to fully fund the state's required contribution in the next state biennial budget.

Explanation of State Revenues: An offer of $3.85 B was accepted by the IFA for a 75-year concession to operate the Indiana Toll Road. The terms and conditions of the Agreement between IFA and the concessionaire do not require ratification by the General Assembly. However, the bill will make actions taken before the effective date of the act legal and valid that would have otherwise been valid under this bill.

This section provides information on the distribution of funds received from the Agreement and a summary of the Agreement.

Use of Toll Road Revenues: The bill establishes the Toll Road Fund consisting primarily of money received from an operator under a public-private agreement but that may include appropriations of the General Assembly. In addition, the Toll Road Fund will receive from the Major Moves Construction Fund amounts to fund reductions in, or refunds of, user fees imposed on Class 2 vehicles. The purpose of the fund is to pay or defease certain bonds, pay amounts owed by the IFA in connection with a public-private agreement, and to make distributions to the Major Moves Construction Fund and the Next Generation Trust Fund. The Toll Road Fund may also be used to pay outstanding obligations related to Indiana Toll Road operations prior to a public-private agreement.

The money in the fund is allocated to one of three accounts within the fund. The Bond Retirement Account contains the amount necessary to repay, defease, or otherwise retire bonds as determined by the IFA; the Administration Account is the amount necessary to pay amounts owed by IFA for performance of a public-private agreement and the amount necessary to establish an escrow account to fund reductions in, or refunds of, user fees; and the remaining money received during each state fiscal year is placed in the Eligible Project Account. Within 30 days after a public-private agreement concerning the Indiana Toll Road has been executed and closed, $500 M from the Eligible Project Account is distributed to the Next Generation Trust Fund and the remainder is distributed to the Major Moves Construction Fund (see below).

Background on Bond Series Outstanding: Money received from a public-private agreement would be used to pay off bonds selected by IFA. The total outstanding balance on bonds issued for the Toll Road Project is currently valued at $198.7 M. IFA estimates that the penalties for early payments of bonds at about $4.0 M. The balance and payment schedule of the outstanding revenue bonds issued by IFA for the Toll Road Project are as follows.

Bond Issue	**Long-term Liability June 30, 2004 (In Millions)**	**Long-term Liability June 30, 2005 (In Millions)**
Series 1985	$26.2	$26.2
Series 1987	$43.2	$43.3
Series 1993	$18.0	$9.3
Series 1996	$121.6	$119.9
Total	**$209.0**	**$198.7**
Indiana East-West Toll Road Project Annual Report, June 30, 2005 and 2004.		

Revenue Bond Repayment Schedule Year-Ending June 30, (In Millions)							
	2006	**2007**	**2008**	**2009**	**2010**	**2011-2015**	**2016**
Principal	$13.7	$14.5	$15.4	$16.3	$17.1	$101.2	$26.2
Interest	11.3	10.5	9.5	8.5	7.7	22.5	0.8
Total	**$25.0**	**$25.0**	**$24.9**	**$24.8**	**$24.8**	**$123.7**	**$27.0**
Indiana East-West Toll Road Project Annual Report, June 30, 2005 and 2004.							

Potential Distribution of Revenues: Under the Agreement (see description below), a one-time payment of $3.85 B would be received at signing. Using the long-term liability balance for June 30, 2005, and the revenue bond principal repayment schedule for FY 2006, the amount of long-term liability is estimated to be $185.0 M at the time of closing, which would be placed into the Bond Retirement Account. It is also estimated that IFA will have projects to complete prior to closing that may cost $12.6 M, and IFA will have to make payments to Goldman Sachs for services on the Agreement with a preliminary estimate of $17.3 M. This would reserve at least $29.9 M for the Administration Account*. There is no indication in the bill of the amount that may be needed to establish an escrow account to fund reductions in, or refunds of, user fees. Of the remaining amount in the Eligible Project Account, $500.0 M would be transferred to the Next Generation Trust Fund and $3.1 B would be available for the Major Moves Construction Fund.

*[*Note:* These amounts are based on the testimony received by the House Ways and Means Committee and information available in Schedule 4.1 of the Agreement. Additional costs that have not been identified could increase the amount placed in the Administration Account, including charges, costs, and expenses that are prorated between IFA and the concessionaire at the time of closing. Reserves in the Toll Road Project under assets held on behalf of the IFA may reduce the amount needed to defease the bonds payable].

Next Generation Trust Fund: The bill establishes the Next Generation Trust Fund (NGTF), a charitable trust to be used exclusively for the provision of highways, roads, and bridges for the benefit of the people of Indiana and the users of those facilities. The State Treasurer is the trustee of the NGTF, which requires administering and managing the trust, investing the money of the trust, and depositing interest earned by the trust. The money not needed to meet current obligations is to be invested in the same manner as PERF funds are invested and may not be invested in equity securities. The Treasurer may contract with investment management professionals, investment advisors, and legal counsel and pay any expenses from the funds in the Trust. All interest accruing to the NGTF will be transferred to the MMCF every five years beginning in 2011, and money in the NGTF will not revert to the state General Fund.

Major Moves Construction Fund: The bill establishes the Major Moves Construction Fund (MMCF), which includes distributions from the Toll Road Fund (estimated at $3.1 B, see above) and from the NGTF; appropriations to the fund; gifts, grants, loans, or bond proceeds; revenues arising from a tollway or toll road; payments made to the IFA or INDOT from public-private agreements concerning tollways; and interest, premiums, or other earnings.

The funds not needed to meet current obligations are to be invested in the same manner as PERF funds, but may not be invested in equity securities. The Treasurer may contract with investment management professionals, investment advisors, and legal council and pay expenses incurred under the contracts from the MMCF.

The MMCF is considered a trust fund, and funds may not be transferred, assigned, or otherwise removed by the State Board of Finance, the Budget Agency, or any other state agency. INDOT will administer the fund to fund public-private agreements for tollways or tollway projects, fund projects in the INDOT long-range plan, and to make distributions required by statute. The fund may also pay any obligations incurred by IFA, INDOT, or an operator in connection with the public-private agreement, pay lease payments to IFA, or make distributions to the State Treasurer for deposit in the State Highway Fund. Money in the fund must be approved by the General Assembly to be available for expenditure.

If IFA enters into a public-private agreement concerning the Indiana Toll Road, money in the MMCF will be distributed as follows:

(1) $150 M total to the Motor Vehicle Highway Account (MVHA), with $75.0 M paid on or before October 15, 2006, and on or before October 15, 2007, for distribution to each county, city, and town that is eligible for a distribution from the MVHA.

(2) $40 M to the NIRDA in FY 2007. Of the distribution, $20 M must be transferred to an airport authority carrying out an airport expansion project.

(3) $80 M total to NIRDA distributed in $10 M increments beginning in FY 2008 for eight years. To receive the funds, NIRDA's comprehensive strategic development plan must be reviewed by the Budget Committee and approved by the director of the Office of Management and Budget, and any distributions in FY 2010, FY 2012, or FY 2014 require Budget Committee review of the status of the plan and any changes to the plan.

(4) $200 M total, with $40 M each to the local major moves construction funds of Steuben, LaGrange, LaPorte, Elkhart, and St. Joseph Counties. If LaPorte joins NIRDA, the county would receive $25 M instead of $40 M, reducing the total expenditure to $185.

(5) $25 M to Porter County.

(6) $15 M to Lake County.

(7) $179 M to the State Highway Fund in FY 2007 for use by INDOT for preliminary engineering, purchase of rights of way, or construction of highways, roads, and bridges. (The Budget Committee may review and the Budget Agency may augment this distribution.)

(8) An amount sufficient to provide for the payments owed by the IFA to fund reductions in, or refunds of, user fees imposed on Class 2 vehicles, or to establish or replenish a reserve for this purpose. The Budget Agency determines the amount required for each fiscal year beginning with FY 2007 and ending in FY 2016.

(9) The amount sufficient to pay for public employee retirements (see above).

Use of Tollway Revenues: Revenues received from a public-private agreement for a tollway project, over and above amounts repaying loans, grants, or reimbursement of services, are distributed by INDOT to the Major Moves Construction Fund, to INDOT for deposit in the State Highway Fund, or to the operator or IFA for debt reduction. There are no data to indicate how much money may be generated from yet unspecified public-private agreements for tollway projects.

Tax Status for Toll Road Projects: The bill is not expected to change the revenues received from property tax related to property that is part of a toll road project. However, increases could occur from increases in Sales and Use Tax on tangible personal property that is purchased by the operator. Since the Toll Road is operated by a state agency, purchases are not currently subject to retail Sales or Use Tax. Based on past financial data, the IFA estimates an average of about $3.4 M a year in FY 2006 and FY 2007 in purchases that would be subject to the state's 6% Sales Tax. This would result in about $200,000 of additional revenue in those years. (Information is not available for other purchases for construction of infrastructure since some of these materials may be exempt from Sales Tax, similar to manufacturers' purchases of manufacturing inputs.)

Tax Status for Tollway Projects: The bill is not expected to affect revenue received from property, Sales, or Use Taxes on property or purchases that become part of the structure or land of a tollway. Governmental units do not pay Sales or Use Tax. Under current law, any property involved in a tollway is not subject to property tax since the operation of the tollway is considered an essential government function. Under the bill, the operator of a public-private agreement would not be required to pay any property tax on property or property interest acquired by the operator. Also, the purchase of any tangible personal property for incorporation or improvement of a structure or facility or land of a tollway is exempt from the Sales and Use Taxes.

Income Tax for Toll Road Operator: The bill provides that an operator's income from a public-private agreement is subject to taxation in the same manner as income received by other private entities. There are no data available to indicate how much would be collected.

Prohibited Political Contributions: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is $10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the $120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Background on the Agreement Concerning the Indiana Toll Road: In October 2005, IFA issued a request for proposal to lease the Toll Road Project. There were 11 proposals submitted, 9 bidders considered, and 4 final bids. On January 23, 2006, the concessionaire, Statewide Mobility Partners LLC (SMP), was selected to operate the Toll Road Project. SMP is a consortium that includes Macquarie Bank, an Australian bank, and Cintra, a Spanish firm. The winning bid was $3.85 B, and the lease will last 75 years.

The Agreement contains specific details of the deal, but does not require the ratification of the General Assembly. However, the Agreement indicates that the Indiana General Assembly has enacted Toll Road legislation that (1) does not contain any provision that is adverse to the Toll Road operation or the concessionaire pursuant to the Agreement; (2) fully exempts the concessionaire from property taxes related to ownership of the Toll Road; (3) provides moral obligation of the state to provide funds for IFA to comply with payments required under the Agreement; and (4) expressly authorizes IFA to grant the concessionaire franchise and license to provide Toll Road services. The bill will make actions taken before the effective date of the act legal and valid that would have otherwise been valid under this bill.

Some of the key points of the Agreement are summarized here. This description is in no way complete, but rather provides some of the details that may be important to legislators.

According to the offer document, the offer is secured by one or more letter(s) of credit in the aggregate amount of $75 M. Under the Agreement, the letter(s) of credit equal to 10% of the rent must be deposited to securitize the Agreement. If SMP does not execute the Agreement, the IFA may draw on the letter(s) and retain the amount. The offer also allows for adjustment of the offered amount by 0.10% ($3.85 M) for every one-basis-point change in the 10-year Treasury yield. This adjustment could increase or decrease the amount offered from January 19, 2006, until the day before execution of the Agreement.

Under the terms of the Agreement that will be signed on June 30, 2006, at the offices of Ice Miller LLP, the concessionaire will be granted an exclusive franchise and license to provide Toll Road services, including operating, managing, maintaining, rehabilitating, and tolling the Toll Road in exchange for a wire transfer of the amount of rent less any cash deposit previously paid in same-day funds. For federal and state tax purposes, the lease of the Toll Road is considered a sale.

The concessionaire is entitled to all tolls collected in accordance with a maximum toll schedule which is also part of the Agreement, and to revenues generated from vendors. Any revenues generated by other activities including mass transit facilities, permits, fees payable to the state, the sale of alcohol, the installation of utilities or similar services and safety measures, and the erection of billboards is the property of the state or IFA. When electronic tolling is established, the concessionaire will receive 50% of any fine collected for passing a toll gate without paying, a Class C infraction created by the bill. The concessionaire must use the revenue from tolls for debt service and operation and maintenance costs before making a distribution to any equity holders.

In addition to the rent, on closing day, the concessionaire will pay the Indiana State Police (ISP) $5.0 M for capital improvements and equipment, including 50 vehicles and vehicle equipment. The concessionaire will also make equal quarterly payments to IFA totaling $6.0 M a year to reimburse ISP services. The concessionaire shall not hire private security services, and ISP must provide traffic law enforcement services on the Toll Road at the same level as it provides on state streets and roadways.

Under the Agreement, the concessionaire has the right to establish, collect, and enforce payment of tolls. The concessionaire must notify the IFA 90 days prior to implementation of any change and must raise rates in accordance with the schedule put forth in the Agreement. Notice to the public is required 60 days prior to implementation. The Agreement sets the maximum toll and through-trip rate per mile for Class 2 users through June 30, 2010, at $8.00, or a $0.0510 through-trip rate per mile. For other user classes, the maximum toll and through trip rate per mile will increase through June 30, 2010. Also, the maximum toll levels for all user classes for trips other than through trips is provided in the Agreement.

The concessionaire may increase the maximum toll level after June 30, 2010, by the initial applicable percentage toll increase. The initial increase is the greater of (A) 8.2%, (B) the percentage increase compounded annually of the Consumer Price Index - U.S. City Average for all Urban Consumers, All Items, not seasonally adjusted (CPI) or (C) the percentage increase compounded annually of the Per Capita Nominal Gross Domestic Product, in current dollars, not seasonally adjusted (GDP). These rates are measured from January 1 to December 31 for each year between 2006 and 2009.

After the initial increase in maximum toll levels, each year the maximum will increase by the greater of (A) 2.0%, (B) the percentage increase of the CPI, or (C) the percentage increase of the per capita nominal GDP. The percentage increase is measured from January 1 to December 31.

Historic Information on CPI and GDP - The following table shows the annual percentage change in CPI and GDP from 1976 to 2005. The CPI and GDP in the table most closely reflect the adjusting factors that will be used under the Agreement to adjust the maximum toll. These historic factors are compared in the table to the 2% base rate increase in the Agreement, and the percentage change that would have applied to increasing the maximum toll in a given year is checked. Over this 30-year historic period, the average percentage increase compounded annually in the maximum toll would have been 6.24%.

Historic Comparison of Increase in CPI and GDP with Minimum 2% Increase			
Year	**CPI**	**GDP**	**2%**
1976	4.86%	✓10.32%	2.00%
1977	6.70%	✓10.16%	2.00%
1978	9.02%	✓11.80%	2.00%
1979	✓13.29%	10.48%	2.00%
1980	✓12.52%	7.57%	2.00%
1981	8.92%	✓11.04%	2.00%
1982	✓3.83%	3.06%	2.00%
1983	3.79%	✓7.67%	2.00%
1984	3.95%	✓10.24%	2.00%
1985	3.80%	✓6.35%	2.00%
1986	1.10%	✓4.79%	2.00%
1987	4.43%	✓5.26%	2.00%
1988	4.42%	✓6.71%	2.00%
1989	4.65%	✓6.44%	2.00%
1990	✓6.11%	4.63%	2.00%
1991	✓3.06%	1.96%	2.00%
1992	2.90%	✓4.30%	2.00%
1993	2.75%	✓3.69%	2.00%
1994	2.67%	✓4.95%	2.00%
1995	2.54%	✓3.37%	2.00%
1996	3.32%	✓4.44%	2.00%
1997	1.70%	✓4.98%	2.00%
1998	1.61%	✓4.11%	2.00%
1999	2.68%	✓4.76%	2.00%
2000	3.39%	✓4.76%	2.00%
2001	1.55%	✓2.11%	2.00%
2002	✓2.38%	2.34%	2.00%
2003	1.88%	✓3.77%	2.00%
2004	3.26%	✓5.91%	2.00%
2005	3.42%	✓5.33%	2.00%

From the acceptance of the letter until the closing, IFA must operate the Toll Road in a manner consistent with past practices and to maintain goodwill. The concessionaire is accepting the Toll Road "As Is", since the concessionaire has inspected the Toll Road.

The concessionaire is responsible for all aspects of Toll Road operations and must cause the Toll Road to be operated in accordance with the Agreement and applicable laws. It must be open and operational 24 hours a day, every day. The concessionaire is subject to the right of IFA to monitor compliance with the Agreement to ensure the Toll Road is used and operated as required by the Agreement. The concessionaire may designate another person to be the operator, as long as IFA has received the required information and has given its approval.

Under the agreement, the concessionaire must provide, at its expense, the following mandatory expansion requirements: (1) Implement a barrier-controlled electronic toll collection within two years of closing; (2) by December 31, 2008, expansion to three lanes in each direction from mile 14.0 to mile 15.5; (3) by December 31, 2010, expansion to three lanes in each direction from mile 10.6 to mile 14.0 and lowering the Toll Road elevation to accommodate the flight path of Gary Chicago International Airport; and (4) by December 31, 2007, expansion to three travel lanes in each direction from mile 18.5 to mile 20.27.

The concessionaire may not do anything that will create an encumbrance against the Toll Road. Further, if the concessionaire requests additional land for the purpose of an expansion (the building, erection, construction, installation, alteration, modification, or replacement of any structure, facility, or other improvement of any kind), it must seek the approval of IFA. If IFA approves, IFA completes the proceedings necessary to acquire or condemn the additional land. All costs of acquisition or condemnation are borne by the concessionaire.

The concessionaire must provide IFA with a written traffic study each year on or before July 1. The minimum level of service (LOS) that the concessionaire must maintain is LOS D in urban areas and LOS C for rural areas. The concessionaire is required to expand the Toll Road to maintain these levels, only to the extent that there is land available for expansion. If the IFA decides to acquire land so that an expansion may occur, then IFA is responsible for 50% of the costs incurred to acquire the land.

The concessionaire is also responsible for providing: (1) quarterly traffic characteristics reports, including traffic forecasts for the upcoming three months, current LOS, and actual traffic counts; (2) incident management notifications and reports; (3) environmental incident reports; and (4) financial reports, including unaudited semiannual financials within 60 days of the end of the period and annual audited financials within 120 days of the end of the reporting year.

The Agreement applies federal and state nondiscrimination laws, minority and women's business enterprise laws, and Buy Indiana presumptions, and it requires the concessionaire to maintain a drug-free workplace. The concessionaire must abide by all ethical requirements that apply to persons who have a business relationship with the state.

Explanation of Local Expenditures: *Northwest Indiana Regional Development Authority (NIRDA):* The bill makes LaPorte County and Michigan City members of NIRDA if, before September 15, 2006, the LaPorte County Council and the Michigan City Council both adopt ordinances joining NIRDA. Beginning in 2007, the bill requires the annual transfer to NIRDA of $2,625,000 from LaPorte County and $875,000 from Michigan City. This transfer represents the annual payment for membership in NIRDA under the bill. This would increase annual total transfers to NIRDA from $17.5 M to $21 M beginning in CY 2007. The bill also increases the membership of the NIRDA Board from seven to nine and provides that the two additional members are to be residents of LaPorte County, with one appointed by the Governor and the other appointed jointly by the LaPorte County executive and County Council.

As with the existing NIRDA members, the bill provides that the transfers from LaPorte County and Michigan City are to be made from one or more of the following:

> (1) Riverboat Admissions Tax revenue received by the city or county, Riverboat Wagering Tax revenue received by the city or county, or riverboat incentive payments received from a riverboat licensee by the city or county.

(2) Any CEDIT revenue received by the city or county.

(3) Any other local revenue other than property tax revenue received by the city or county.

In addition, the bill allows LaPorte County and Michigan City to make the transfer with money distributed to the county or city from the MMCF.

The bill also broadens the types of projects that NIRDA may pursue. The bill allows NIRDA to undertake regional transportation authority projects and services; and to assist with the funding of infrastructure needed to sustain development of an intermodal facility in northwestern Indiana.

> *Background:* Under current statute, NIRDA is comprised of Lake County and Porter County. The NIRDA Board consists of: (1) two members appointed by the Governor; (2) one member each appointed by the mayor of Gary, the mayor of Hammond, and the mayor of East Chicago, and the county executive and county council of Lake County; and (3) one member appointed by the county executive and county council of Porter County. Current statute requires Lake County, Porter County, Gary, Hammond, and East Chicago to each transfer \$3.5 M annually to NIRDA beginning in 2006. The transfers must be made from Riverboat Admission Tax, Riverboat Wagering Tax, riverboat incentive payments, or CEDIT revenue received by the city or county, or any other revenue source other than property tax revenue received by the city or county.

Annually, LaPorte County receives \$3.9 M in Riverboat Admission Tax revenue (including Admission Tax replacement payments from the Property Tax Replacement Fund), but does not receive Riverboat Wagering Tax revenue. It is reported that LaPorte County is not a direct recipient of riverboat incentive payments. In addition, LaPorte County currently imposes CEDIT at a rate of 0.45%, with the CY 2006 certified distribution totaling about \$8.3 M. Michigan City also receives \$3.9 M annually in Riverboat Admission Tax revenue and approximately \$9.5 M annually in Riverboat Wagering Tax revenue. Michigan City also receives an ongoing incentive payment from Blue Chip casino computed as a percentage of adjusted gross wagering receipts at the casino. This incentive payment is estimated to total about \$4.3 M in FY 2006 and \$4.7 M in FY 2007.

Prohibited Political Contributions: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

<u>Explanation of Local Revenues:</u> *Northwest Indiana Regional Development Authority:* Under current law, the NIRDA will receive up to \$20 M from the IFA. The funds received may be used for any purpose of the NIRDA. As of December 2005, the IFA approved a \$10 M allocation to the NIRDA in 2006 from the Toll Road General Reserve Fund. This bill removes this payment, but allows for a payment of \$40 M during FY 2007 to be appropriated to NIRDA from the Major Moves Construction Fund if IFA enters into a public-private agreement concerning the Indiana Toll Road. NIRDA shall pay at least \$20 M of the distribution to an airport authority that is carrying out an airport expansion project in FY 2007. Also, NIRDA will receive payments of \$10 M a year for eight years beginning in FY 2008. NIRDA's comprehensive strategic development plan must be reviewed by the Budget Committee and approved by the director of the Office of Management and Budget before the initial payment may be made, and in FY 2010, FY 2012, and FY 2014, the strategic plan must be reviewed by the Budget Committee.

Counties Traversed by the Indiana Toll Road: The projects or purposes that benefit a county traversed by the Indiana Toll Road may not be less than 34% of the money transferred from the Toll Road Fund to MMCF plus the amount used to establish an escrow account to fund reductions in, or refunds of, user fees. The Budget Agency makes a determination of the amount of distributions required and must consider payments by the MMCF under this statute including payments to the Motor Vehicle Highway Fund that are distributed to counties, cities, and towns; to NIRDA; to Steuben, LaGrange, LaPorte, Elkhart, St. Joseph, Porter, and Lake Counties; for projects carried out by INDOT in counties traversed by the Indiana Toll Road; for an escrow account to fund reductions in or refund of user fees; and for state employee retirements.

Local Major Moves Construction Funds: Money paid to Steuben, LaGrange, LaPorte, Elkhart, St. Joseph, Porter, and Lake Counties from the MMCF (see above) will be distributed to the counties and cities and towns that are eligible to receive a distribution from the Motor Vehicle Highway Account in the same proportion as MVHA funds are distributed. Money designated for an airport authority is excluded from the distribution.

Each county, city, or town receiving a distribution is required to establish a local major moves construction fund to construct highways, roads, and bridges, or for the NIRDA, for the purposes allowed. The funds may also be used to fund economic development projects, match federal grants, provide a county's or city's contribution to NIRDA, or fund interlocal agreements. The funds will be distributed to the county auditor. The county fiscal body must consult with the county executive before appropriating money in the fund.

Motor Vehicle Highway Account: Counties, cities, and towns eligible for distributions from the Motor Vehicle Highway Account will be eligible to receive a proportional share of $75 M per year during FY 2007 and FY 2008, which is distributed from the MMCF. The distribution will be in the same proportion as other funds that are distributed from the Account. Eligible counties, cities, and towns may use the funds for the purposes as currently allowed in law. An estimate of the amounts that will be distributed to each eligible county, city, or town is available through Legislative Services Agency.

State Agencies Affected: Department of Transportation; Indiana State Police; State Board of Accounts; State Treasurer; Auditor of State; Department of Personnel; Public Employees' Retirement Fund; Department of State Revenue; Budget Agency.

Local Agencies Affected: Trial courts; Local law enforcement agencies; All cities, towns, and counties.

Information Sources: *Indiana East-West Toll Road Project Annual Report, June 30, 2005 and 2004; State of Indiana Comprehensive Annual Financial Report, FY 1999-FY 2003; Indiana Toll Road, Request for Toll Road Concessionaire Proposal;* Ryan Kitchell, Director Public Finance, 317-233-4334; Bureau of Economic Analysis, *Table 7.1, Selected Per Capita Product and Income Series in Current and Chained Dollars [Dollars] Seasonally adjusted at annual rates* available at www.bea.gov; Bureau of Labor Statistics, Consumer Price Index for all Urban Cities, available at www.bls.gov; Doug Todd of McCready & Keane, Inc., actuaries for PERF, 317 576-1508. STATS Indiana, *Annual Commuting Trends Profile Based on Indiana IT-40 Returns for Tax Year 2003*, http://www.stats.indiana.edu/commtframe.html; Indiana Department of Transportation, *2002 Interstate Annual Average Daily Traffic Volumes*; Thomas Sharp, Commissioner, Indiana Department of Transportation; *Treasurer of State Annual Report for FY 2005, Schedule B- Accrual Basis*.

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